

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

&

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

OP (RC) .No. 60 of 2015 (O)

R.C.P No.9/2014 OF RENT CONTROL COURT, KOCHI

PETITIONER(S)/RESPONDENT:-:

MR.NARESH KUMAR AGARWAL AGED 53 YEARS
S/O.LATE DWARAKA PRASAD AGARWAL
RESIDING AT VIII/547, OPPOSITE T.D.HIGH SCHOOL
COCHIN - 2.

BY ADVS.SRI.S.ABHILASH
SRI.K.SIJU
SMT.S.SEETHA
SMT.NIMA JACOB

RESPONDENT(S)/PETITIONER:-:

MRS.MOULSHREE SINGHAL, AGED 37 YEARS
W/O.VIKASKUMAR SINGHAL, NAKIPURIA SADAN
DOOR NO.CC. VII/2102, GUJARATHI ROAD, KOCHI-2.

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON
25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC) .No. 60 of 2015 (O)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 A TRUE COPY OF THE ORDER IN I.A.NO.1365/2014 IN R.C.P
NO.9/2014 DATED 09.03.2015.

EXHIBIT P2 A TRUE COPY OF SALE DEED NO.6318/2006.

EXHIBIT P2 (A) A TRUE COPY OF CORRECTION DEED NO.1939/2013.

EXHIBIT P3 A TRUE COPY OF THE RENT CONTROL PETITION 9/2014 FILED
BY THE RESPONDENT BEFORE THE RENT CONTROL COURT,
KOCHI.

EXHIBIT P4 A TRUE COPY OF I.A.NO.1365/2014.

EXHIBIT P5 A TRUE COPY OF THE PLAINT IN O.S.NO.30/2014.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

vdv

K.SURENDRA MOHAN & MARY JOSEPH, JJ.

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O.P(R.C) No.60 of 2015

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Dated this the 25th day of May, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner has filed this Original Petition seeking the following reliefs:

- i) To call for records leading to Ext.P1 and quash Ext.P1 order or in the alternative direct the Rent Control Court to adduce evidence in Ext.P4 I.A No.1365/2014 by affording opportunity to the petitioner.
- ii) To grant such other relief as this Hon'ble Court deem fit and proper in the facts and circumstances of the case.

2. The petitioner is the respondent in R.C.P No.9 of 2014 pending before the Rent Control Court, Kochi. The case of the petitioner is that he has been in possession of the tenanted premises from 1994 onwards. He contended that, he was the absolute owner of the property having an extent of 20.975 cents of land and the

buildings bearing door Nos.CC 7/55, 7/56 and 7/57. The property is comprised in Survey No.509 of Mattancherry Village. The claim of the respondent was that he had purchased the property as per sale deed No.6318 of 2006 of Kochi Sub Registry dated 28.12.2006, which was later corrected by another deed. After the sale deed, a notice had been issued to the petitioner informing him of the same and directing him to pay the rent to the respondent.

3. The case of the petitioner is that, the sale deed as well as the rectification deed that was registered by petitioner, who was admittedly the owner of the property, are liable to be set aside. He has therefore filed O.S No.30 of 2014 for the purpose, which is pending before the Sub Court, Kochi. The case of the petitioner is that, since he does not admit the status of the respondent as the landlord, this is a case in which the landlord – tenant relationship is in dispute. The said dispute can be resolved only upon final adjudication of the contentions in O.S No.30 of 2014. He therefore, sought for rejection of the Rent Control Petition by filing I.A No.1365 of 2014. The said Interlocutory Application has been

dismissed by Ext.P1 order. This original petition has been filed challenging Ext.P1.

4. According to Sri.S Abhilash, learned counsel who appears for the petitioner, the title of the respondent is not admitted. The same has been questioned raising valid contentions. The contentions are pending adjudication before the Sub Court in O.S No.30 of 2014. Therefore, according to the learned counsel, the present Rent Control Petition is not maintainable without establishing the status of the respondent. It is contended by the learned counsel that, the court below had not given him opportunity to adduce evidence in support of his contentions. Therefore, it is contended that the impugned order is liable to be set aside and the matter remitted back for fresh consideration after permitting the petitioner to adduce evidence.

5. Heard. The case of the petitioner is that, the original landlord had entered into an agreement with him for sale of the property on 04.12.2006. The petitioner also claims that he is the absolute owner in possession and enjoyment of the property having

been put in possession thereof from 1994 onwards. We notice that, the respondent had produced as many as 20 documents in support of the claim of absolute ownership in respect of the property. Ext.P2 is the copy of sale deed by which the respondent purchased the property. Ext.P2(a) is a copy of the rectification deed. The documents produced, prima facie, show that the respondent has acquired rights over the property. The reliefs sought for in O.S No.30 of 2014 show that what the petitioner has sought for is, setting aside of the sale deed. The said suit is still pending. The petitioner would have to work out his remedies in the said suit by adducing evidence in support of his contentions. We notice that the petitioner had not produced even a scrap of paper before the Rent Control Court in support of his contention that he had acquired rights over the tenanted premises. Therefore, we find no infirmity in the impugned order, Ext.P1, by which the Rent Control Court has rejected the claim of the petitioner. In the state of the evidence referred to above, we find no grounds to interfere with the impugned order or to grant any of the reliefs sought for by the

petitioner. It is for the petitioner to work out his remedies in the suit.

In view of the above, this Original Petition is dismissed. It is made clear that the observations made above are only for the purpose of disposal of this Original Petition and shall not be used against the petitioner in the Original Suit and Rent Control Petition that are pending.

Sd/-
K.SURENDRA MOHAN, JUDGE

Sd/-
MARY JOSEPH, JUDGE

vdv